

UNITED STATES DEPARTMENT OF AGRICULTURE 2013 APR 16 PM 12:37

BEFORE THE SECRETARY OF AGRICULTURE

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In re:) AWA Docket No. 12-0428
)
CINDY BARDIN, an individual doing)
business as JUNGLE EXPERIENCE,)
) CONSENT DECISION
Respondent.) AND ORDER

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture ("APHIS"), alleging that the respondent willfully violated the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in the complaint and specifically admits that the Secretary has jurisdiction in this matter, admits the remaining allegations as set forth herein as findings of fact and conclusions of law, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding to the entry of this decision. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Cindy Bardin is an individual doing business as Jungle Experience, and whose mailing address is 6603 State Route 149, Granville, New York 12832. At all times mentioned in the complaint, as amended, said respondent operated as an exhibitor, as that term is defined in the Act and the Regulations and held Animal Welfare Act license number 21-C-0319 as an "individual."

2. On or about August 26, 2010, at Rhinebeck, New York, respondent failed to have an accurate written program of veterinary care available for inspection

3. On or about September 6, 2007, the lemur enclosure was excessively rusted such that it could not be sanitized as required, respondent had no plan for the environmental enhancement for nonhuman primates, there was an accumulation of building materials in the animal area that could serve as a harbor for pests, and there was a pile of nails adjacent to the cougar cage and accessible to the cougar.

4. On or about July 6, 2009, respondent failed to maintain accurate and complete records of the acquisition and disposition of a coati mundi.

5. On or about June 22, 2010, water and water receptacles for bears were dirty, there was a wire protruding into the capuchin enclosure, and there was an accumulation of clutter around the premises.

6. On or about August 26, 2010, during public exhibition at Rhinebeck, New York, there was no secondary barrier between the public and the primary enclosures housing a coati mundi and housing primates, and the enclosures were not constructed in a manner that would prevent the public from having direct contact with the animals.

7. On or about August 26, 2010, at Rhinebeck, New York, respondent had a five-month-old tiger on the premises, which tiger was being fed a diet that had not been reviewed and/or approved by respondent's attending veterinarian.

8. On or about December 3, 2010, there were no barrier fences between the public and the enclosures housing serval, pig, lion, bear, fox and lynx, so as to prevent the public from having direct contact with the animals.

9. On or about December 3, 2010, food storage areas were also used for housing animals, there were open food bags, the rooms were cluttered with construction and cleaning materials, fruit and vegetables were stored on the floor in open containers under a roof that was under construction, respondent's perimeter fence behind lynx enclosure lacked sufficient structural strength, and there was an accumulation of clutter around the premises.

10. On or about June 3, 2011, respondent's perimeter fence lacked sufficient structural strength.

11. On or about October 13, 2011, there were protruding nails and a hammer in the pig enclosure, and there was a wire protruding into the lion enclosure.

Conclusions of Law

1. Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

2. On or about August 26, 2010, at Rhinebeck, New York, respondent failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries; specifically, respondent failed to have an accurate written program of veterinary care available for inspection, in violation of the Regulations. 9 C.F.R. § 2.40(a).

3. On or about September 6, 2007, respondent violated the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum Standards, as follows:

- a. The lemur enclosure was excessively rusted such that it could not be sanitized as required. 9 C.F.R. § 3.75(c)(1)(i).
- b. Respondent had no plan for the environmental enhancement for nonhuman primates. 9 C.F.R. § 3.81.
- c. There was an accumulation of building materials in the animal area that could serve as a harbor for pests. 9 C.F.R. § 3.131(c).

d. There was a pile of nails adjacent to the cougar cage and accessible to the cougar. 9 C.F.R. § 3.131(c).

4. On or about July 6, 2009, respondent failed to maintain accurate and complete records of the acquisition and disposition of a coati mundi, as required, in violation of the Regulations. 9 C.F.R. § 2.75(b).

5. On or about June 22, 2010, respondent violated the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum Standards, as follows:

- a. Water and water receptacles for bears were dirty. 9 C.F.R. § 3.130.
- b. There was a wire protruding into the capuchin enclosure. 9 C.F.R. § 3.75(a).
- c. There was an accumulation of clutter around the premises. 9 C.F.R. § 3.131(c).

6. On or about August 26, 2010, at Rhinebeck, New York, there was no secondary barrier between the public and the primates' primary enclosure, and the enclosures were not constructed in a manner that would prevent the public from having direct contact with the animals, in violation of the Regulations. 9 C.F.R. §§ 2.131(c)(1), 3.78(e).

7. On or about August 26, 2010, at Rhinebeck, New York, there was no barrier fence between the public and the coati mundi enclosure, and the enclosure was not constructed in a manner that would prevent the public from having direct contact with the animal, in violation of the Regulations, 9 C.F.R. § 2.131(c)(1).

8. On or about August 26, 2010, at Rhinebeck, New York, respondent violated the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum Standards, as follows:

- a. Respondent had a five-month-old tiger on the premises, which tiger was being fed a diet that had not been reviewed and/or approved by respondent's attending veterinarian. 9 C.F.R. § 3.129.

9. On or about December 3, 2010, there were no barrier fences between the public and the enclosures housing serval, pig, lion, bear, fox and lynx so as to prevent the public from having direct contact with the animals, in violation of the Regulations. 9 C.F.R. § 2.131(c)(1).

10. On or about December 3, 2010, respondent violated the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum Standards, as follows:

- a. Food storage areas were also used for housing animals, there were open food bags, the rooms were cluttered with construction and cleaning materials, and fruit and vegetables were stored on the floor in open containers under a roof that was under construction. 9 C.F.R. § 3.125(c).
- b. Respondent's perimeter fence behind lynx enclosure lacked sufficient structural strength. 9 C.F.R. § 3.127(d).
- c. There was an accumulation of clutter around the premises. 9 C.F.R. § 3.131(c).

11. On or about June 3, 2011, respondent violated the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum Standards, as follows:

- a. Respondent's perimeter fence lacked sufficient structural strength. 9 C.F.R. § 3.127(d).

12. On or about October 13, 2011, respondent violated the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum Standards, as follows:

- a. There were protruding nails and a hammer in the pig enclosure. 9 C.F.R. § 3.125(c).
- b. There was a wire protruding into the lion enclosure. 9 C.F.R. § 3.125(c).

Order

1. Respondent, her agents and employees, successors and assigns, directly or through

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any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder.

2. Animal Welfare Act license number 21-C-0319 is hereby suspended for one week, beginning April 15, 2013, and ending April 22, 2013, unless, upon inspection by APHIS, respondent's facilities, animals and records are not in compliance with the Act, Regulations and Standards, whereupon Animal Welfare Act license number 21-C-0319 shall continue to be suspended until respondent shall have attained such compliance.

The provisions of this order shall become effective immediately. Copies of this decision shall be served upon the parties.

[REDACTED]
Cindy Bardin
Respondent

[REDACTED]
Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.
this 5th day of April 2013

[REDACTED]
Janice K. Bullard
Administrative Law Judge